CF0000064586

(2)

CrA 2341/2000

1-189(Jail)C.J.P.R./9-94

APPEAL OF PRISONER

No. ST.No- 438/96 Name - [illegible]

Father's name - [illegible] Residence - [illegible] Age - 35 yrs

Sentenced to - [illegible] on - 17-7-2000

Under Section - [illegible] by A.S.J. [illegible]

It is explained to the prisoner that if he states he wishes to be represented by a legal practitioner the appellate Court will proceed with the case for seven days unless the legal practitioner appears earlier. If the legal practitioner does not appear within seven days he may not heard at all if the Prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to my legal practitioner who should appear.

1. Date of Application for copy of Judgement [illegible]
2. Date on which copy received- 30-8-2000
3. Date on which Appeal sent-
4. Whether the prisoner wishes to be represented or not-

No. ST.No- 438/96 Name - [illegible]

Confined in - [illegible] Jail- [illegible]

No. 75- Dated 31/8/2000 199

Forwarded to the [illegible] to gether with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

Superintendent

Jail

Date of receipt in Office

Date of receipt of record to accompany the

Memo of Appeal to the Appellate Court-

No. Date 199

Forwarded to the :-

Date of receipt in Appellate Court -

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(17)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

**मामला क्रमांक** Cr.R.No.2341/.. **सन्** 2000

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**DIVISION BENCH:**
**HON'BLE MR. L.C. BHADOO &**
**HON'BLE MR.V.K. SHRIVASTAVA, JJ**

**18.9.2006**

Mr. Abhay Tiwari, Advocate for the appellant.

Mr. U.K.S. Chandel, Panel Lawyer for the State.

Oral judgment dictated on Dais.

Per L.C. Bhadoo, J.

This appeal is directed against the judgment of conviction and order of sentence dated 11th July, 2000 passed in S.T.No.438/96 by the learned Additional Sessions Judge, Janjgir, whereby learned Additional Sessions Judge after holding the accused/appellant guilty for committing murder of his mother namely Rambai, convicted him under Section 302 of I.P.C. and sentenced to undergo imprisonment for life.

The prosecution case, in brief, is that on 27.7.1996 at about 2.00 p.m. the accused/appellant attacked his mother Rambai with an axe on her neck as a result of which she died on the spot. The matter was reported by PW-2, Baunaram, husband of deceased, in the Police Station Shivrinarayan. On receiving the report, the police registered the F.I.R. (Ex.P-4) and the Investigating Officer left for the scene of occurrence. He prepared the site plan (Ex.P-1) of the place of occurrence and after giving notice (Ex.P-2) to the Panchas prepared the Panchanama (Ex.P-2) of the body of deceased Rambai. He took into possession the broken pieces of bangles of deceased under Ex.P-3 and weapon of offence under Ex.P-6. Dead body of deceased

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## आदेश पत्रक

**मामला क्रमांक** ..... **सन्** **200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित — 2 — | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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Rambai was sent for postmortem examination to the Primary Health Centre, Shivrinarayan under Ex.P-12, where Dr. M.L. Sahu (PW-7) conducted the postmortem and prepared the postmortem report Ex.P-13. He noticed following injuries on the body of deceased;

a. Incised wound on the anterior aspect of above the medial part of left clavicle in the size of $4\frac{1}{2}$" x 2"x 4", ante mortem in nature.

b. Incised wound on the left posterior aspect of neck in the size of $5\frac{1}{2}$"x3"x6", cutting cervical vertebra bones. Ante mortem in nature.

The doctor opined that the cause of death is shock due to haemorrhage from the incised wounds on neck cutting carotid artery and death was homicidal in nature. Recovered articles were sent to Forensic Science Laboratory, Sagar for chemical examination, from where report Ex.P-28 & Ex.P-29 has been received.

After completion of investigation, charge sheet was filed against the accused/appellant in the Court of learned Judicial Magistrate 1st Class, Janjgir, who in turn committed the case to learned Sessions Judge, Bilaspur from where learned Additional Sessions Judge, Janjgir received the case on transfer for trial.

The prosecution in order to establish the charge against the accused/appellant examined 10 witnesses. On the other hand, learned Additional Sessions Judge recorded the statement of accused/appellant under Section 313 of Cr.P.C. in which he denied the material appearing in the prosecution evidence against him and stated that at the time of incident his

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## आदेश पत्रक

**मामला क्रमांक ..... सन् 200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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mental condition was not perfect, therefore, he was not able to think about the pros & corns of his act. Ultimately, he has stated that he is innocent and has been falsely implicated in the crime.

Learned Additional Sessions Judge after hearing the arguments of learned Additional Public Prosecutor for the State and learned counsel for the accused, convicted and sentenced the accused/appellant in the manner, as mentioned in Para-1 of this judgment.

We have heard Mr. Abhay Tiwari, Advocate for the accused/appellant and Mr. U.K.S. Chandel, Panel Lawyer for the State.

Learned counsel for the accused/appellant has not disputed the homicidal death of Rambai. Apart from that, in view of the evidence of eyewitness namely Narmada Prasad (PW-3), brother of accused & son of deceased and evidence of Dr. M.L. Sahu (PW-7), who has stated that the death of deceased was homicidal in nature, it is established that the death of Rambai was homicidal in nature.

As far as the involvement of accused/appellant in committing the murder of Rambai is concerned, eyewitness namely Narmada Prasad (PW-3) has categorically stated that when he was returning to home after taking bath from the pond, he heard the screams of his mother "save-save" and when his mother came in the street, he saw that his brother Gangaprasad was chasing his mother carrying axe in his hand. When his mother fell down in the street, accused Gangaprasad attacked with the axe on her mother's neck. On seeing this, he rushed towards his father for calling him. In the cross-examination of this witness, defence has not been able to elicit any

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**मामला क्रमांक ..... सन् 200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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circumstance, which makes the evidence of this witness unreliable or untrustworthy. Moreover, evidence of this witness stands corroborated by the evidence of PW-2, Baunaram, father of accused & husband of deceased, who has stated that on the fateful day when he was at the bus stand, his son Narmada Prasad came and informed him that Gangaprasad had attacked his mother Rambai, on which he rushed towards the scene of occurrence. He saw that accused was coming from the side of place of occurrence carrying axe in his hand stained with blood. He snatched that axe from the accused, however, he ran away. Even that axe, which was taken into possession, was sent for chemical examination, from where report has been received that there was blood on the axe. Therefore, from the ocular as well as circumstantial evidence, the involvement of accused/appellant in commission of crime in question is fully established and we do not find any illegality or irregularity in the judgment of the trial court.

Learned counsel for the accused/appellant argued that as the accused was ousted from the house, therefore, in a fit of anger he assaulted his mother without understanding the consequences, there was no intention to cause death of deceased and as such, the accused/appellant has been wrongly convicted under Section 302 of the IPC.

On the other hand, learned Panel Lawyer for the State supports the judgment of the trial court.

In order to appreciate the arguments advanced by the respective counsel, we have perused the evidence of Narmada Prasad (PW-3), as per his evidence the accused was residing at Baloda with his wife and on the festival

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## आदेश पत्रक

**मामला क्रमांक ..... सन् 200**

**..... विरुद्ध .....**

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -5- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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of *Navratara* he came to the village. Even though, he was staying separately but taking meals at their residence. On the fateful day, he saw that accused, was chasing his mother, carrying axe in his hand and when his mother fell down he attacked on her neck with the axe as a result of which she received fatal injury and died. In the cross-examination, there is no suggestion that the accused was not having any grudge against his mother for separating him from the family and even the father of accused has supported the above evidence. The manner in which the accused assaulted the deceased with the deadly weapon axe on her neck, makes the intention of the accused clear to cause her death, as a result of which Rambai received two incised wounds on her neck and even carotid bone was cut and she died instantaneously on the spot. Moreover, there is nothing on record to show that in any manner the deceased enraged the accused as a result of which he assaulted her.

As far as the statement of accused/appellant that at the time of incident his mental condition was not perfect and he was not in a position to understand the pros & corns of his act, therefore, he committed the sin. But, there is nothing on record to show that at the time of commission of crime, the mental condition of the accused/appellant was not perfect, as such we do not find any substance in the argument of learned counsel for the accused/appellant.

In the result, the appeal is devoid of merit, same is liable to be dismissed and accordingly, it is dismissed.

**Sd/-**
**L.C.BHADOO**
**Judge**

**Sd/-**
**V.K. Shrivatava**
**Judge**

Roshan/-

(पीछे देखिये)